

Court granted Plaintiff's request in part, directing the clerk to enter default against Defendants and noting that default judgment may not enter until there is a clerk's entry of default (Doc. 24).

A clerk's entry of default was entered against Defendants on May 15, 2019 (Doc. 25). On June 19, 2019, Defendants filed a motion to set aside default judgment (Doc. 30). In their motion, Defendants explain that due to a delay in receiving a request for representation resulting from a clerical error, and through no fault of Defendants, representation was not assigned and a timely answer was not filed. Defendants indicate that counsel was assigned on June 9, 2019. Although captioned as a motion to set aside default judgment, the Court construes Defendants' request as a motion to set aside the clerk's entry of default as default judgment has not been entered against them. On August 7, 2019, Defendants filed a motion for leave to file their answer and affirmative defenses *instante* (Doc. 32).

Federal Rule of Civil Procedure 55(c) provides that the court may set aside an entry of default for good cause. The Seventh Circuit has remarked that in order to vacate an entry of default, the moving party must show: "(1) good cause for the default; (2) quick action to correct it; and (3) a meritorious defense to the complaint." *Cracco v. Vitran Express, Inc.*, 559 F.3d 625, 630-31 (7th Cir. 2009) (internal quotations omitted).

Here, the Court finds that Defendants have shown good cause for their default. Defendants explain that their failure to file an answer was due to a clerical error concerning their request for representation, rather than their own failure to actively litigate this case. Defendants have also acted quickly in seeking to correct their mistake, filing a motion for extension of time to answer along with their motion to set aside default, as well as filing a motion for leave to file their answer *instante*. Finally, the Court finds that denying Defendants' motion to vacate the entry of default would undermine the notion that cases should be decided on the merits.

For these reasons, Defendants' motion to set aside default judgment (construed as a motion to set aside the Clerk's entry of default) (Doc. 30) and Defendants' motion for leave to file instanter (Doc. 32) is **GRANTED**. Defendants are **ORDERED** to file their answer to Plaintiff's complaint by **August 23, 2019**. In light of this Order, Plaintiff's motion for default judgment (Doc. 31) is **DENIED AS MOOT**.

IT IS SO ORDERED.

DATED: August 21, 2019

s/ *Reona J. Daly*
Hon. Reona J. Daly
United States Magistrate Judge